

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: AUGUST 16, 2006**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-14441 - APPLICANT/OWNER: CORY, LLC**

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**\*\* CONDITIONS \*\***

The Planning Commission (6-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Rezoning (ZON-13898), and Site Development Plan Review (SDR-13901) shall be required.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

This request is for a Variance to allow 32,767 square feet of open space where 40,250 square feet is required in conjunction with a proposed 56-unit apartment complex at the southwest corner of Upland Boulevard and Corey Place.

**EXECUTIVE SUMMARY**

Staff cannot support the request as no evidence of a unique or extraordinary circumstance has been presented to why the required amount of open space cannot be accommodated on the subject site. Alternative site designs would allow conformance with code requirements.

**BACKGROUND INFORMATION**

***A) Related Actions***

- 08/04/93      The City Council struck from the agenda a Rezoning from R-1 to R-3 on the subject site (Z-0036-93) on a portion of the subject site. The Planning Commission recommended denial. Staff recommended approval.
- 07/13/06      The Planning Commission recommended denial of companion items GPA-13894, ZON-13898 and SDR-13901 concurrently with this application.
- 07/13/06      The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #37/alj).

***B) Pre-Application Meeting***

- 05/12/06      Details of the proposal and necessary application were discussed at a pre-application meeting with the applicant.

***C) Neighborhood Meetings***

A neighborhood meeting is not required as part of this application request, nor was one held. However, the applicant held a neighborhood meeting for the related General Plan Amendment (GPA-13894) on June 15, 2006. Twelve persons attended and had the following comments:

- Project site is too small for 56 units
- Traffic using Cory Place
- General Plan should remain L (Low Density Residential)

- Not enough open space
  - Not enough parking for site
  - Site should be developed as single family homes
- Site should be for sale and not rent

## **DETAILS OF APPLICATION REQUEST**

### ***A) Site Area***

Site Area: 2.5 Gross Acres

### ***B) Existing Land Use***

Subject Property	Vacant
North	Church
South	Retail Buildings
East	Single Family Dwellings
West	Multi-family Dwellings

### ***C) Planned Land Use***

Subject Property	L (Low Density Residential)
North	L (Low Density Residential)
South	SC (Service Commercial)
East	L (Low Density Residential)
West	M (Medium Density Residential)

### ***D) Existing Zoning***

Subject Property	R-1 (Single Family Residential)
North	R-1 (Single Family Residential)
South	C-1 (Limited Commercial)
East	R-1 (Single Family Residential)
West	R-PD14 (Residential Planned Development – 14 Units Per Acre) under Resolution of Intent to R-PD15 (Residential Planned Development – 15 Units Per Acre)

**E) General Plan Compliance**

The L (Low Density Residential) category of the Southeast Sector Plan permits single-family detached homes, manufactured homes on individual lots, gardening, residential planned developments, and planned community developments. Local supporting uses such as parks, other recreational facilities, schools and churches are allowed in this category. A companion application seeks to amend the general plan category to the M (Medium Density Residential) category.

<b><i>SPECIAL DISTRICTS/ZONES</i></b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>		X
<b>Special Overlay District</b>		X
<b>Trails</b>		X
<b>Rural Preservation Overlay District</b>		X
<b>County/North Las Vegas/HOA Notification</b>		X
<b>Development Impact Notification Assessment</b>		X
<b>Project of Regional Significance</b>		X

**ANALYSIS**

**A) Zoning Code Compliance**

**A1) Landscape and Open Space Standards**

• **R-PD ONLY**

Pursuant to Title 19.06, the following Open Space Standards apply to the subject proposal:

<b>Total Acreage</b>	<b>Density</b>	<b>Ratio</b>	<b>Required</b>		<b>Provided</b>	
			<b>Percent</b>	<b>Area</b>	<b>Percent</b>	<b>Area</b>
2.5 acres	22.4	1.65	36.8 %	40,250 SF	30.7%	32,767

The proposal does not meet the open space requirements of a R-PD development

**B) General Analysis and Discussion**

The proposed project will be consistent with portions of Title 19 and the Landscape, Wall and Buffer Standards. However, the development does not comply with the open space requirements in Title 19 for the R-PD (Residential Planned Development) zoning district. Open space is an integral part of the R-PD zone, as the developer receives flexibility in

design and density for the provision of amenities, such as open space. When open space is not provided, in effect the project does not meet the standards for the zoning district in which it is located. Essentially, the developer receives the bonuses inherent to the R-PD zone without providing the amenities.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by attempting to overbuild the site. Alternative site layout would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

6

## **ASSEMBLY DISTRICT**

3

**SENATE DISTRICT** 11

**NOTICES MAILED** 207 by City Clerk

**APPROVALS** 0

**PROTESTS** 224